



## 2009 SENATE BILL 37

1     **AN ACT** *to amend* 345.47 (1) (intro.), 345.47 (1) (b), 345.47 (1) (c), 345.47 (1) (d),  
2             345.47 (2), 800.09 (1) (a), 800.09 (1) (c), 800.095 (2) (a), 800.095 (4) (a), 800.095  
3             (4) (b) (intro.), 800.095 (4) (b) 4. and 800.095 (4) (c); and **to create** 345.47 (4) and  
4             800.09 (3) of the statutes; **relating to:** payment of judgments in traffic courts  
5             and municipal courts by installments and the suspension of operating  
6             privileges.

---

*Analysis by the Legislative Reference Bureau*

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

7             **SECTION 1.** 345.47 (1) (intro.) of the statutes is amended to read:  
8             345.47 (1) (intro.) If the defendant is found guilty, the court may enter  
9             judgment against the defendant for a monetary amount not to exceed the maximum  
10            forfeiture provided for the violation, plus costs, fees, and surcharges imposed under

**SENATE BILL 37****SECTION 1**

1 ch. 814, and, in addition, may suspend or revoke his or her operating privilege under  
2 s. 343.30. Upon entering judgment, the court shall notify the defendant personally,  
3 if the defendant is present, and in writing that the defendant should notify the court  
4 if he or she is unable to pay the judgment because of poverty, as that term is used in  
5 s. 814.29 (1) (d). If the defendant is present and the court, using the criteria in s.  
6 814.29 (1) (d), determines that the defendant is unable to pay the judgment because  
7 of poverty, the court shall provide the defendant with an opportunity to pay the  
8 judgment in installments, taking into account the defendant's income. If the  
9 judgment is not paid or if the defendant fails to make any ordered installment  
10 payment, the court shall order:

11 **SECTION 2.** 345.47 (1) (b) of the statutes is amended to read:

12 345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension  
13 or revocation, that the defendant's operating privilege be suspended. The operating  
14 privilege shall be suspended for 30 days or until the person pays the forfeiture, plus  
15 costs, fees, and surcharges imposed under ch. 814, but not to exceed 2 years. If the  
16 defendant has notified the court that he or she is unable to pay the judgment because  
17 of poverty, and if the court, using the criteria in s. 814.29 (1) (d), determines that the  
18 defendant is unable to pay the judgment because of poverty, the court may not  
19 suspend the defendant's operating privilege without first providing the defendant  
20 with an opportunity to pay the judgment in installments, taking into account the  
21 defendant's income. Suspension under this paragraph shall not affect the power of  
22 the court to suspend or revoke under s. 343.30 or the power of the secretary to  
23 suspend or revoke the operating privilege. This paragraph does not apply if the  
24 judgment was entered solely for violation of an ordinance unrelated to the violator's  
25 operation of a motor vehicle.

**SENATE BILL 37**

1           **SECTION 3.** 345.47 (1) (c) of the statutes is amended to read:

2           345.47 **(1)** (c) If a court or judge suspends an operating privilege under this  
3 section, the court or judge shall immediately take possession of the suspended license  
4 and shall forward it to the department together with the notice of suspension, which  
5 shall clearly state that the suspension was for failure to pay a forfeiture, plus costs,  
6 fees, and surcharges imposed under ch. 814 or for failure to comply with an  
7 installment payment plan ordered by the court. The notice of suspension and the  
8 suspended license, if it is available, shall be forwarded to the department within 48  
9 hours after the order of suspension. If the forfeiture, plus costs, fees, and surcharges  
10 imposed under ch. 814, are paid during a period of suspension, or if the court orders  
11 an installment payment plan under sub. (4), the court or judge shall immediately  
12 notify the department. Upon receipt of the notice and payment of the fees under s.  
13 343.21 (1) (j) and (n), the department shall return the surrendered license.

14           **SECTION 4.** 345.47 (1) (d) of the statutes is amended to read:

15           345.47 **(1)** (d) In addition to or in lieu of imprisonment or suspension under par.  
16 (a) or (b), the court may notify the department, in the form and manner prescribed  
17 by the department, that a judgment has been entered against the defendant and  
18 remains unpaid, or that the defendant has failed to comply with an installment  
19 payment plan ordered under this section. The notice shall include the name and  
20 last-known address of the person against whom the judgment was entered, the date  
21 judgment was entered, the amount of the judgment, the license number of the vehicle  
22 involved, certification by the court that a warrant has been served on the person  
23 against whom the judgment was entered or, in the case of a judgment entered under  
24 s. 345.28, that the person has been notified of the entry of judgment and the judgment  
25 remains or installments remain unpaid and the place where the judgment or

**SENATE BILL 37****SECTION 4**

1 installments may be paid. If the person subsequently pays the judgment or complies  
2 with the installment payment plan the court shall immediately notify the  
3 department of the payment in the form and manner prescribed by the department.

4 **SECTION 4m.** 345.47 (2) of the statutes is amended to read:

5 345.47 (2) The Except in those cases in which the court orders payment by  
6 installments, the payment of any judgment may be suspended or deferred for not  
7 more than 60 days in the discretion of the court. In cases where a deposit has been  
8 made, any forfeitures, plus costs, fees, and surcharges imposed under ch. 814, shall  
9 be taken out of the deposit and the balance, if any, returned to the defendant.

10 **SECTION 5.** 345.47 (4) of the statutes is created to read:

11 345.47 (4) (a) If the operating privilege of a defendant is suspended under this  
12 section, the court may terminate that suspension and substitute an installment  
13 payment plan for paying the amount of the judgment that takes into account the  
14 defendant's income.

15 (b) If the operating privilege of a defendant is suspended under this section, the  
16 court shall terminate that suspension and substitute an installment payment plan  
17 for the payment of the amount of the judgment that takes into account the  
18 defendant's income if all of the following conditions apply:

19 1. The defendant is unable to pay the judgment in full because of poverty, as  
20 that term is used in s. 814.29 (1) (d).

21 2. The defendant has not previously failed to comply with an installment  
22 payment plan ordered under this section that takes into account the defendant's  
23 income.

**SENATE BILL 37**

1 (c) If the defendant fails to comply with an installment payment plan ordered  
2 under this subsection, the court shall reinstate the suspension of the defendant's  
3 operating privilege.

4 **SECTION 6.** 800.09 (1) (a) of the statutes is amended to read:

5 800.09 (1) (a) The court may defer payment of any judgment or provide for  
6 installment payments. At the time that the judgment is rendered, the court shall  
7 inform the defendant, orally and in writing, of the date by which restitution and the  
8 payment of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814,  
9 must be made, and of the possible consequences of failure to do so in timely fashion,  
10 including imprisonment, as provided in s. 800.095, or suspension of the defendant's  
11 motor vehicle operating privilege, as provided in par. (c), if applicable. In addition,  
12 the court shall inform the defendant, orally and in writing, that the defendant should  
13 notify the court if he or she is unable to pay the judgment because of poverty, as that  
14 term is used in s. 814.29 (1) (d). If the defendant is not present, the court shall ensure  
15 that the information is sent to the defendant by mail. If the defendant is present and  
16 the court, using the criteria in s. 814.29 (1) (d), determines that the defendant is  
17 unable to pay the judgment because of poverty, the court shall provide the defendant  
18 with an opportunity to pay the judgment in installments, taking into account the  
19 defendant's income. In 1st class cities, all of the written information required by this  
20 paragraph shall be printed in English and Spanish and provided to each defendant.

21 **SECTION 7.** 800.09 (1) (c) of the statutes is amended to read:

22 800.09 (1) (c) The court may suspend the defendant's operating privilege, as  
23 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments  
24 and costs are paid, if the defendant has not done so within 60 days after the date the  
25 restitution or payments or both are to be made under par. (a) ~~and has not notified the~~

**SENATE BILL 37****SECTION 7**

1 ~~court that he or she is unable to comply with the judgment, as provided under s.~~  
2 ~~800.095 (4) (a), except that the suspension period may not exceed 2 years. If the~~  
3 ~~court, using the criteria in s. 814.29 (1) (d), determines that the defendant is unable~~  
4 ~~to pay the judgment because of his or her poverty, as that term is used in s. 814.29~~  
5 ~~(1) (d), the court may not order the suspension of the defendant's operating privilege,~~  
6 ~~except as provided in s. 800.095.~~ The court shall take possession of the suspended  
7 license and shall forward the license, along with a notice of the suspension clearly  
8 stating that the suspension is for failure to comply with a judgment of the court, to  
9 the department of transportation. This paragraph does not apply if the forfeiture is  
10 assessed for violation of an ordinance that is unrelated to the violator's operation of  
11 a motor vehicle.

12 **SECTION 8.** 800.09 (3) of the statutes is created to read:

13 **800.09 (3) JUDGMENT REGARDING OPERATING PRIVILEGE.** (a) If the operating  
14 privilege of a defendant is suspended under this section or s. 800.095, the court may  
15 terminate that suspension and substitute an installment payment plan for paying  
16 the amount of the judgment that takes into account the defendant's income.

17 (b) If the operating privilege of a defendant is suspended under this section or  
18 s. 800.095, the court shall terminate that suspension and substitute an installment  
19 payment plan for the payment of the amount of the judgment that takes into account  
20 the defendant's income if all of the following conditions apply:

21 1. The defendant is unable to pay the judgment in full because of poverty, as  
22 that term is used in s. 814.29 (1) (d).

23 2. The defendant has not previously failed to comply with an installment  
24 payment plan ordered under this section that takes into account the defendant's  
25 income.

**SENATE BILL 37**

1 (c) If the defendant fails to comply with an installment payment plan ordered  
2 under this subsection, the court shall reinstate the suspension of the defendant's  
3 operating privilege.

4 **SECTION 9.** 800.095 (2) (a) of the statutes is amended to read:

5 800.095 (2) (a) The warrant shall be in the form specified under s. 800.02 (5).

6 The summons shall be in substantially the following form:

7 STATE OF WISCONSIN

8 .... City/Village/Town

9 State of Wisconsin

10 vs.

11 .... Defendant(s)

12 THE STATE OF WISCONSIN TO THE DEFENDANT

13 A judgment, a copy of which is attached, has been entered against you for  
14 (restitution and) the payment of a civil forfeiture. You were ordered by the court on  
15 ....., .... (year) to (make the following payments: ....) (perform the following community  
16 service work order: ....) (make the following restitution: ....).

17 You have failed to comply with that order.

18 YOU ARE THEREFORE ORDERED to appear before the Honorable .... in ....  
19 Courtroom, at the .... Courthouse, in the City/Town/Village of .... at .... a.m./p.m. TO  
20 SHOW THAT YOU ARE UNABLE TO (PAY THE FORFEITURE OR MAKE  
21 RESTITUTION FOR GOOD CAUSE OR BECAUSE OF YOUR INDIGENCE  
22 POVERTY) (TO COMPLY WITH THE COMMUNITY SERVICE WORK ORDER  
23 FOR GOOD CAUSE). If (good cause or your indigence poverty has prevented you  
24 from paying the forfeiture or making restitution) (good cause has prevented you from  
25 complying with the community service work order), the court will modify the order.

**SENATE BILL 37****SECTION 9**

1 IF YOU FAIL TO APPEAR AT THE TIME AND PLACE DESIGNATED  
2 ABOVE, AN ORDER FOR COMMITMENT SHALL BE ISSUED AND YOU WILL  
3 BE IMPRISONED IN THE JAIL/HOUSE OF CORRECTIONS. IN ADDITION, AN  
4 ORDER MAY BE ISSUED TO SUSPEND YOUR MOTOR VEHICLE OPERATING  
5 PRIVILEGE.

6 Dated: ....., .... (year)

7 Signature:....

8 (Municipal Court Judge)

9 **SECTION 10.** 800.095 (4) (a) of the statutes is amended to read:

10 800.095 (4) (a) If the defendant appears before the court pursuant to a warrant  
11 or summons issued under sub. (1) or the defendant otherwise notifies the court that  
12 he or she is unable to comply with the judgment or community service work order,  
13 the court shall conduct a hearing. If the defendant failed to pay the forfeiture, make  
14 restitution, comply with an ordered installment payment plan, or comply with the  
15 work order, the court shall determine if the defendant is unable to comply with the  
16 judgment for good cause or because of the defendant's indigence poverty, as that term  
17 is used in s. 814.29 (1) (d), or is unable to comply with the work order for good cause.

18 **SECTION 11.** 800.095 (4) (b) (intro.) of the statutes is amended to read:

19 800.095 (4) (b) (intro.) If the defendant fails to appear before the court for a  
20 hearing conducted under par. (a) or if the court determines at a hearing under par.  
21 (a) that the failure of the defendant to comply with the judgment is not for good cause  
22 or because of the defendant's indigence poverty, as that term is used in s. 814.29 (1)  
23 (d), or that the failure of the defendant to comply with the work order is not for good  
24 cause, the court shall order one of the following:

25 **SECTION 12.** 800.095 (4) (b) 4. of the statutes is amended to read:



